THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14322 of 1998

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondents 1 and 2 in not promoting the petitioner to the post of Assistant Depot Clerk/Controller while promoting his juniors including respondents 3 to 5 as arbitrary, illegal and contrary to APSRTC (Employees) Recruitment Regulations, 1966 and consequently direct the respondents to promote the petitioner as Assistant Depot Clerk in Chittoor region with effect from 10.3.1998.

It appears, petitioner was initially appointed as Conductor in the year 1976 and presently working in Chttoor-I Depot since 1992. According to the petitioner, the next promotional post is Assistant Depot Clerk/Controller as per the recruitment regulations. Drivers and Conductors comprise the feeder categories for promotion. Conductors were given promotion to the post of Assistant Depot Clerks, a statutory clerical job, and Drivers were given the post of Controller, which is equivalent to that of Assistant Depot Clerks. When the petitioner was removed from service earlier, he raised a dispute in I.D.No.346 of 1987 before the Labour Court, Ananthapur and he was directed to be reinstated into service. Aggrieved by the same, management filed W.P.No.6313 of 1989 and the same was dismissed on 16.2.1994. Further, he was shown in the seniority list of Conductors of Chittoor division at Serial No.180. The third respondent was shown at Serial No.187 and fourth respondent at Serial No.186 and fifth respondent at Serial No.185. Thus, the respondents 3 to 5 are juniors to the petitioner, but they were promoted as Assistant Depot Clerks vide proceedings dated 10.3.1998. According to the petitioner, the promotion of respondents 3 to 5 is arbitrary and illegal.

A detailed counter affidavit has been filed by the respondents

denying the allegations made by the petitioner. It is stated that though the petitioner was originally appointed in the year 1976, he was removed from service on 14.8.1986 after conducting a departmental enquiry for having involved in cash and ticket irregularities case. Being aggrieved by the said removal, petitioner raised a dispute in I.D.No.346 of 1987 before the Labour Court, Ananthapur, wherein the Labour Court passed award dated 2.7.1988 modifying the punishment and ordered for reinstatement. However, the Labour Court categorically held that the petitioner is entitled for continuity of service from the notification of award. The award was notified on 15.7.1988 vide G.O.Rt.No.1506 and as such, the seniority of the petitioner was reckoned from 15.7.1988 and not from 11.12.1976 as contended by the petitioner. Thus, the petitioner became junior to the respondents 3 to 5 and as such, he is not entitled for promotion. In fact the case of the petitioner was also considered along with respondents 3 to 5 and the same was rejected by the selection committee. Merely, the writ petition filed by the Corporation against the award passed in I.D.No.346 of 1987 dated 2.7.1998 was dismissed, it does not mean that the petitioner is entitled for continuity of service automatically over and above what was awarded by the Labour Court.

Heard both sides.

From the above, it is clear that though the petitioner is senior to respondents 3 to 5, he was removed from service since he was involved in cash and ticket irregularities case. Thereafter on raising a dispute in I.D.No.346 of 1987, the Labour Court directed reinstatement, but held that the petitioner is entitled for continuity of service from the date of notification i.e. 15.7.1988. Thus, the service rendered by the petitioner prior to passing of award was denied. I have also perused the award passed by the Labour Court, which reads as under:

1. The respondent has to reinstate the workman within 30days from the date of notification of this award.

2. The workman is entitled to get continuity of service from the date of notification of this award.

3. The workman is entitled to get his usual annual increments from year to year from the date of his removal from service till he is reinstated only on paper, but at the same time without getting any monetary relief.

4. The workman is not entitled to get any attendant benefits.

From the above, it is seen that the Labour Court has held that the workman is entitled to get his usual increments from the date of his removal from service till he is reinstated only on paper, but at the same time, without getting any monetary relief. A composite reading of all the above conditions would amply show that the Labour Court intended to deny the past service of petitioner before notifying the award. Under those circumstances, the claim of the petitioner is imaginary and speculative one. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 21.6.2007
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21.6.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.14322 of 1998

Date: 21st June, 2007

Between:

A.Govind Reddy

.. Petitioner

And

The Vice Chairman and Managing Director,
APSRTC, Musheerabad, Hyderabad & others.

.. Respondents